

BILL TEXT:

STATE OF NEW YORK

6325

2005-2006 Regular Sessions

IN ASSEMBLY

March 10, 2005

Introduced by M. of A. BURLING, ALFANO, WIRTH, KIRWAN, NESBITT, CALHOUN, HOOKER, KOLB -- Multi-Sponsored by -- M. of A. BACALLES, BARRA, BARRAGA, BUTLER, CROUCH, ERRIGO, FINCH, MANNING, McDONALD, McDONOUGH, OAKS, O'CONNELL, RAIA, SAYWARD, TEDISCO, THIELE, TOWNSEND -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to forfeiture of the proceeds of a felony related to a sexual performance by a child

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 6 of section 1310 of the civil practice law and
2 rules, as added by chapter 669 of the laws of 1984, is amended to read
3 as follows:

4 6. "Pre-conviction forfeiture crime" means only a felony defined in
5 article two hundred twenty or two hundred sixty-three, or section 221.30
6 or 221.55 of the penal law.

7 § 2. Paragraph (g) and the opening paragraph of paragraph (h) of
8 subdivision 2 of section 1349 of the civil practice law and rules, para-
9 graph (g) as amended by chapter 398 of the laws of 2004 and the opening
10 paragraph of paragraph (h) as added by chapter 655 of the laws of 1990,
11 are amended to read as follows:

12 (g) [~~Forty~~] Except as otherwise provided in paragraph (i) of this
13 subdivision, forty percent of all moneys realized through forfeiture
14 which are remaining after distributions pursuant to paragraphs (a)
15 through (f) of this subdivision, to the chemical dependence service fund
16 established pursuant to section ninety-seven-w of the state finance law;

17 [~~All~~] Except as otherwise provided in paragraph (i) of this subdivi-
18 sion, all moneys remaining after distributions pursuant to paragraphs
19 (a) through (g) of this subdivision shall be distributed as follows:

20 § 3. Subdivision 2 of section 1349 of the civil practice law and rules
21 is amended by adding a new paragraph (i) to read as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (i) When the forfeiture was based upon a post-conviction crime or
 2 pre-conviction crime, defined in article two hundred sixty-three of the
 3 penal law, all moneys which are remaining after distributions pursuant
 4 to paragraphs (a) through (f) of this subdivision, in equal amounts to
 5 the claiming agent, claiming authority and the local social services
 6 office located within the jurisdiction of the claiming authority for the
 7 following uses and purposes:

8 (i) to improve training of personnel and to establish, operate and
 9 improve community-based multi-disciplinary approaches to address the
 10 problem of child sexual molestation;

11 (ii) to conduct training on child sexual exploitation and other sexual
 12 molestation of children for other professionals who come in contact with
 13 children;

14 (iii) to prevent the sexual molestation of children; and

15 (iv) to fund treatment programs for sexually victimized children.

16 § 4. This act shall take effect on the first of January next succeed-
 17 ing the date on which it shall have become a law.

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
 MEMORANDUM IN SUPPORT OF LEGISLATION
 submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A6325

SPONSOR: Burling (MS)

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to forfeiture of the proceeds of a felony related to a sexual performance by a child

PURPOSE OR GENERAL IDEA OF BILL:

This bill requires forfeiture of certain property by certain individuals convicted of promoting sexual performances by a child. The state may confiscate any and all materials or equipment used, or intended for use, in committing a sexual offense; any property derived from gross profits or proceeds obtained from promoting a sexual performance by a child.

SUMMARY OF SPECIFIC PROVISIONS:

Amends sections 1310 and 1349 of the civil practice law and rules.

JUSTIFICATION:

In 1986 U.S. Attorney General Commission on Pornography issued its report. It recommended, among other things, a civil forfeiture statute. This legislation, would embody this recommendation. The proceeds of sales and unsold property would be used to train law enforcement officials and create treatment programs for victims. This bill was introduced based upon recommendations from the 1986 U.S. Attorneys General Commission on Pornography and the February 1989 report from the National Center for Missing Children.

PRIOR LEGISLATIVE HISTORY:

A5221 of 1999-00 Died in codes
 A4474 of 2001-02 Died in codes
 A3651 of 2003-04 Referred to codes

FISCAL IMPLICATIONS:

Added revenue to the State.

EFFECTIVE DATE:

This act shall take effect on the first of January next succeeding the date on which it shall have become a law.
